


**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

In re:

Application of Storag Etzel GmbH for an
Order, Pursuant to 28 U.S.C. § 1782, to
Obtain Discovery for Use in a Foreign
Proceeding

REDACTED - PUBLIC VERSION
(Filed December 2, 2019)

Misc. C.A. No. 1:19-mc-209-CFC


**DECLARATION OF ANDREW ZEVE IN SUPPORT OF BAKER
HUGHES'S MEMORANDUM IN OPPOSITION TO STORAG'S
APPLICATION OR, ALTERNATIVELY, TO STAY THE PROCEEDINGS**

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*Attorneys for Respondent
Baker Hughes, a GE Company, LLC*

Dated: November 22, 2019

Pursuant to 28 U.S.C. § 1746, I, Andrew Zeve, declare as follows:

1. I am a partner at the law firm of Bracewell LLP (“Bracewell”), counsel to Baker Hughes, a GE company, LLC (“BHGE”) in the above-captioned matter and in another civil action currently pending before the United States District Court for the Southern District of Texas filed against BHGE by Triuva Kapitalverwaltungsgesellschaft mbH (“Triuva”) on September 21, 2015. That matter is styled *TRIUVA Kapitalverwaltungsgesellschaft mbH v. Baker Hughes, a GE Company, LLC*, No. 4:15-cv-02744 (S.D. Tex. Sept. 21, 2015) (“Texas Litigation”).¹

2. I have personal knowledge of all facts stated in this declaration, and if called to testify, I could and would testify competently thereto.

3. Triuva asserted products liability claims against BHGE in the Texas Litigation. Because of the similarities between the proceedings, BHGE moved for and obtained a stay of the case pending the outcome of [REDACTED]

[REDACTED] Order Staying Case, *TRIUVA*

¹ BHGE must disclose information in this action relating to [REDACTED] in order to fully and fairly respond to Storag’s Application. Such information may be subject to confidentiality provisions related to the [REDACTED]. Accordingly, BHGE has also filed a Motion for Leave to File Under Seal and will file its papers under seal in accordance with such motion and D. Del. LR 26.2 in order to protect any such information.

Kapitalverwaltungsgesellschaft mbH, No. 4:15-cv-02744 (S.D. Tex. Sept. 21, 2015), at ¶ 1, a copy of which is attached as Exhibit A (cited portion highlighted).

4. According to an Amended Complaint filed in the Texas Litigation, IVG Immobilien GmbH, Storag's ultimate parent company, was assigned the rights to Triuva's claims in the Texas Litigation by written agreement on March 6, 2018. Amended Complaint, *TRIUVA Kapitalverwaltungsgesellschaft mbH*, No. 4:15-cv-02744 (S.D. Tex. Sept. 21, 2015), at ¶ 10, a copy of which is attached as Exhibit B (cited portion highlighted).

5. [REDACTED], BHGE moved for summary judgment on *res judicata* and other grounds; that motion is pending. See Plaintiff's Opposition to Defendants' Motion for Summary Judgment, *TRIUVA Kapitalverwaltungsgesellschaft mbH*, No. 4:15-cv-02744 (S.D. Tex. Sept. 21, 2015), at 13–18, a copy of which is attached as Exhibit C (cited portion highlighted).

6. In opposing BHGE's motion to stay, Triuva's pleadings stated that discovery should be allowed because it would not impact [REDACTED]

[REDACTED] and because "there will likely be no discovery at all concerning the design and marketing defects" [REDACTED]. See Plaintiff's Opposition to Defendants' Motion to Stay, *TRIUVA Kapitalverwaltungsgesellschaft mbH*, No.

4:15-cv-02744 (S.D. Tex. Sept. 21, 2015), at 16, a copy of which is attached as Exhibit D (cited portion highlighted).

7. At a hearing, Triuva's counsel told the court "there is not going to be discovery in [REDACTED]." *See* Dec. 14, 2015 Hr. Tr. at 4:7-11, a copy of which is attached as Exhibit E (cited portion highlighted).

8. At a later hearing, Triuva's counsel told the court that "the discovery that's taken place [REDACTED] *See* March 14, 2017 Hr. Tr. at 16:6-12, a copy of which is attached as Exhibit F (cited portion highlighted).

9. [REDACTED]
[REDACTED]
[REDACTED] attended multiple hearings in which Triuva argued for obtaining BHGE documents.

10. The court did not allow discovery, and I am not aware of any Section 1782 application brought against BHGE in connection with [REDACTED].

11. Attached hereto as Exhibit G is a true and correct copy of chapter one from Redfern and Hunter on International Arbitration. *See* NIGEL BLACKABY ET AL., REDFERN AND HUNTER ON INTERNATIONAL ARBITRATION 13 (Oxford Univ. Press 6th ed. 2015).

12. Attached hereto as Exhibit H is a true and correct copy of a chapter from the World Arbitration Reporter [REDACTED]

[REDACTED]

[REDACTED]

13. Attached hereto as Exhibit I is a true and correct copy of the IBA Arbitration Committee's Arbitration Guide for Germany. *See* RICHARD KREINDLER ET AL., ARBITRATION GUIDE, IBA ARBITRATION COMMITTEE (GERMANY) 13 (2019).

14. Attached hereto as Exhibit J is a true and correct copy of the International Bar Association's ("IBA") Rules on the Taking of Evidence in International Commercial Arbitration. *See* IBA Rules, Art. 3(9).

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed November 22, 2019, in Houston, Texas.



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CERTIFICATE OF SERVICE

I, Robert M. Vrana, hereby certify that on December 2, 2019, I caused to be electronically filed a true and correct copy of the foregoing document with the Clerk of the Court using CM/ECF, which will send notification that such filing is available for viewing and downloading to the following counsel of record:

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I further certify that on December 2, 2019, I caused the foregoing document to be served via electronic mail upon the above-listed counsel and on the following:

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